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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/935,553

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678-718 (P9880)

1507

28249

7590

08/04/2006

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EXAMINER

CHANG, EDITH M

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/935,553

Applicant(s)

LEE ET AL.

Examiner

Edith M. Chang

Art Unit

2611

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 4-8, 14-17, 23, 24, 30 and 31.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 9, 10, 18, 19 and 34.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because:

Argument: Regarding claim 34, applicants argue that Kuchi et al. in which the four antennas of Kuchi et al. each transmits a different signal; antenna 1 transmits  $SIW1$  and  $S2W2$ , antenna 2 transmits  $-S^*2W1$  and  $S^*1W2$ , antenna 3 transmits  $Sd1W1$  and  $Sd2W2$ , and antenna 4 transmits  $-Sd^*2W1$  and  $Sd^*1W2$ .


Response: In FIG.1, Symbols  $S1$  and  $S2$  are transmitted on the antenna 114 and antenna 116 (column 4, lines 15-20 of Kuchi et al.), wherein pilot signals comprise the symbols as stated in the previous Office action. Claim 34 recites that at least two same pilot signals are transmitted from at least two antennas. Hence Kuchi et al. disclose at least two same pilot signals ( $S1$  and  $S2$ ) are transmitted from at least two antennas 114 and 116 as recited in the claim 34, therefore the claim 34 is unpatentable over Kuchi et al.

Argument: Regarding claims 9,10,18 & 19, applicants argue that the Kuchi et al. is silent as to the spreading process and the Whinnett et al. uses two orthogonal codes.

Response: Kuchi et al. discloses the spreading process in FIG.1 block 110 and in FIG.5 block 510 spreading signals from block 506 and transmitted via four antennas 514, 516, 518 & 520. The spreading code (the orthogonal code used to spread) can be chosen the same as taught in FIG.5 to different symbol pattern input from 502, same applied to FIG.1 wherein the block 110 and 112 provide the same spreading code. As in FIG.4, the  $S1$  &  $S2$  is one symbol pattern and  $Sd1$  &  $Sd2$  is another symbol pattern, both patterns are spreaded by the same code pair ( $W1, W2$ ), wherein the pair ( $W1, W2$ ) is the same spreading code.

Therefore, Kuchi et al. discloses all the subject matter recited in the claims, except the well-known multiplier for spreading, Whinnett et al. teaches the multiplier in the spreading process.

Hence, claims 9,10,18 & 19 are unpatentable over Kuchi et al. in view of Whinnett et al.

  
JEAN B. CORRIELUS  
PRIMARY EXAMINER  
8-2-06